

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 22, 2001 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: None

Executive Action: **SJR 17 - BCIAA**
SB 229 - BCIAA
SB 384 - BCIAA
SB 132 - BCIAA
SB 283 - BCIAA
HB 637 - DPAA
SB 85 - Table
SB 342 - Table
SB 337 - Table

EXECUTIVE ACTION ON SB 85

Motion: REP. ADAMS moved that **SB 85 BE CONCURRED IN. #1**

Discussion: Rep. Shockley asked if anyone had amendments. Rep. Curtiss said she had an amendment and felt Sen. Tester would not be opposed to this amendment as it is procedural.

Motion/Vote: REP. CURTISS moved that **SB 85 BE AMENDED. #2 The motion carried unanimously 20-0.**

Motion: REP. CLARK moved that **SB 85 BE CONCURRED IN AS AMENDED. #3**

Discussion: Rep. Peterson said he believed the Bill was designed to not only increase the jury pool but to create a little more liberal jury pool and you do that by having more people who are drivers than opposed to just the electors. You get a little more conservative pool from just the electors.

Rep. Noennig said he thinks the idea behind the Bill has merit but he has a problem of not getting a cross-section. Juries are currently gleaned from voter lists and people are hesitant to register to vote because they don't want to serve on juries, so you single out senior-type people to serve on juries, which is fine but it isn't necessarily a good cross-section. We need to have both, voters and licensed drivers.

Reps. Adams, Curtiss, Gallus, Noennig to John MacMaster for clarification. Reps. Holden, Shockley, Hurdle, Peterson, Laszloffy cited personal opinions.

Motion/Vote: REP. ADAMS moved that **SB 85 BE TABLED. #4. Motion carried 11-9 with Reps. Clark, Eggers, Gallus, Gutsche, Harris, Hurdle, Mangan, Thomas and Wolery voting no.**

{Tape : 1; Side : A; Approx. Time Counter : 0 - 25}

EXECUTIVE ACTION ON HB 637

Motion: REP. GUTSCHE moved that HB 637 DO PASS. #5

Discussion: Rep. Newman asked the Committee to give favorable consideration to the Bill with or without the amendments.

Rep. Mangan said this is a much needed Bill. These programs work for youth court mediations.

Rep. Peterson said mediations are used almost universally now with great benefits. It should be a regular part of the judicial system.

Rep. Hurdle cited an example where the process was successful.

Motion: REP. CURTISS moved that HB 637 BE AMENDED. #6

Discussion: Rep. Gutsche explained the amendments
EXHIBIT(juh65a01)

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 2.2}

Vote: The Curtiss amendment (#6) passed unanimously 20-0.

Motion: REP. ADAMS moved that HB 637 DO PASS AS AMENDED. #7

Discussion: Rep. Noennig; Rep. Rice asked Rep. Newman for clarification. Rep. Newman said this is just going to add an office in the Attorney General's office that will help promulgate information, train probation officers who will train policemen, train prosecutors and defense attorneys and will seek sources of money, both federal and private.

Vote: The Adams motion carried unanimously 20-0.

EXECUTIVE ACTION ON SB 283

Motion: REP. YOUNKIN moved that SB 283 BE CONCURRED IN. #8

Discussion: Reps. Gallus, Holden, Noennig, Curtiss, Gallus, Gutsche, Hurdle, Peterson.

Motion: REP. CURTISS moved that SB 283 BE AMENDED. #9

Discussion: Reps. Curtiss, Laszloffy, Gallus, Shockley.

Motion: REP. MANGAN moved that SB 283 BE AMENDED to segregate 3 and 4. #10

Discussion: Reps. Mangan, Shockley, Mr. MacMaster referred to the Bill, page 9, lines 2 through 5, there is some underlined language. Judge Larsen's amendments are designed to replace that underlined language with the language he has in lines 3 through 4 so part of that amendment should be to strike lines 2 through 5 and insert the last amendments 3 and 4.

Further Discussion: Rep. Gallus said if he inserted the new language in the amendment and struck the language, lines 2 through 5, the whole of the program is about permanency. Will that strike the permanency language as well? Mr. MacMaster said it wasn't necessary to strike the language on lines 2 through 5. He could leave that language and insert the Larsen amendments 3 through 4. When Mr. MacMaster talked to Judge Larsen he said he wanted to be more specific as to what the Board is going to focus on in their review.

Rep. Mangan said when he made his motion (#10), to segregate and support 3 and 4, it was with the understanding that the language that is currently in the Bill, would remain.

Rep. Clark said he is a little reluctant to vote for something that gets so specific. This is a big issue and really involves a team approach.

{Tape : 1; Side : B; Approx. Time Counter : 2.2 - 29.6}

Discussion: Reps. Mangan, Clark, Hurdle, Younkin.

Vote: Motion (#10) carried 18-2 with Reps. Harris and Noennig voting no.

Discussion: Reps. Peterson, Holden, Laszloffy, Shockley

Motion: REP. ADAMS moved that SB 283 BE AMENDED, Amendment #1. #11

Motion/Vote: REP. GALLUS moved a substitute motion that SB 283 BE AMENDED to segregate 2. #12. Motion carried unanimously 20-0.

Motion/Vote: REP. GALLUS moved that SB 283 BE AMENDED to segregate 1,5,6,7 through 10. #13 The motion failed on a unanimous vote 0-20.

Motion/Vote: REP. ADAMS moved that SB 283 BE CONCURRED IN AS AMENDED. #14. Motion carried 18-2 with Reps. Mangan and Thomas voting no.

EXECUTIVE ACTION ON SB 132

Motion: REP. YOUNKIN moved that SB 132 BE CONCURRED IN. #15

Discussion: Reps. Curtiss, Rice.

Motion: REP. RICE moved a CONCEPTUAL AMENDMENT TO STRIKE ENTIRE SECTION 6. #16

Discussion: Reps. Rice, Gallus, Harris, Peterson.

Vote: Motion #16 failed 1-19 with Rep. Rice voting aye.

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 20.1}

Motion: REP. HARRIS moved that SB 132 BE AMENDED
EXHIBIT(juh65a02) #17

Discussion: Rep. Harris explained the amendments.

Motion: REP. LASZLOFFY moved a substitute motion that SB 132 BE AMENDED. #18 He withdrew his motion.

Discussion: Reps. Adams, Gallus, Wolery.

{Tape : 2; Side : A; Approx. Time Counter : 20.1 - 29.5}

Further Discussion: Reps. Younkina, Thomas, Adams, Harris, Noennig, Shockley, Gutsche to Mr. MacMaster for technical explanations.

Motion/Vote: REP. YOUNKIN moved that SB 132 BE AMENDED to segregate 11. #19 Motion carried unanimously 20-0

Motion: REP. YOUNKIN moved #11 BE AMENDED. #20

Discussion: Reps. Peterson, Clancy, Mangan, Harris, Younkina, Hurdle, Noennig, Clark, Shockley.

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 29.7}

Vote: Motion #20 passed on Younkin amendment 14-6 with Reps. Shockley, Adams, Clancy, Curtiss, Noennig and Thomas voting no.

Motion: REP. ADAMS moved that SB 132 BE CONCURRED IN AS AMENDED. #21.

Discussion: Reps. Thomas, Mangan, Harris, Gallus, Clancy, Younkin.

Vote: Motion #21 carried unanimously 20-0.

EXECUTIVE ACTION ON SJ 17

Motion: REP. ADAMS moved that SJ 17 BE CONCURRED IN. #22

Discussion: Reps. Noennig, Hurdle.

Motion: REP. NEWMAN moved that SJ 17 BE AMENDED. #23

Discussion: Reps. Newman, Laszloffy, Gutsche, Hurdle.

Motion: REP. HURDLE moved a substitute motion that SJ 17 BE AMENDED on line 21, after the word "ownership" to put a period and to delete the "whereas" that begins on line 16 and terminates on line 17. #24

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 29.4}

Discussion: Reps. Hurdle, Newman, Gallus.

Vote: Motion #24 carried unanimously 20-0

Motion/Vote: REP. ADAMS moved that SJ 17 BE CONCURRED IN AS AMENDED. #25 Motion carried unanimously 20-0

EXECUTIVE ACTION ON SB 229

Motion: REP. YOUNKIN moved that SB 229 BE CONCURRED IN. #26

Motion: REP. MANGAN moved that SB 229 BE AMENDED. #27
EXHIBIT (juh65a03)

Discussion: Rep. Mangan explained the amendment by saying it takes out special consideration language in the Bill.

Further Discussion: Reps. Laszloffy, Noennig, Mangan, for clarification and explanations

Vote: Motion (#27) failed on a tie vote 10-10.

Motion/Vote: REP. GALLUS moved to reconsider the vote on Amendment #27. #28 Motion carried 16-4 with Reps. Adams, Curtiss, Holden and Rice voting no.

Motion: REP. MANGAN moved that SB 229 BE AMENDED. EXHIBIT 3. #29.

Discussion: Rep. Mangan explained his amendment further.

Vote: Mangan Motion carried 12-8 with Reps. Laszloffy, Adams, Clancy, Curtiss, Noennig, Rice, Thomas and Wolery voting no.

Discussion: Reps. Shockley, Mangan, Clark, Noennig, Laszloffy, Curtiss.

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 29.4}

Further Discussion: Reps. Peterson, Adams, Gutsche.

Motion/Vote: REP. ADAMS moved that SB 229 BE TABLED. #30 Motion failed 8-11 with Reps. Clancy, Eggers, Gallus, Gutsche, Harris, Holden, Hurdle, Mangan, Newman, Noennig and Younkin voting no.

Motion/Vote: REP. ADAMS moved that SB 229 BE CONCURRED IN AS AMENDED. #31. Motion carried 12-8 with Reps. Shockley, Laszloffy, Clark, Adams, Curtiss, Peterson, Rice and Wolery voting no.

Discussion: Reps. Shockley, Newman and Mr. Macmaster concerning HB 146 and SB 386.

EXECUTIVE ACTION ON SB 342

Motion: REP. YOUNKIN moved that SB 342 BE CONCURRED IN. #32

Discussion: Reps. Gutsche, Peterson, Mangan, Noennig.

Motion/Vote: REP. MANGAN moved that SB 342 BE TABLED. #33 Motion carried unanimously 20-0.

EXECUTIVE ACTION ON SB 337

Motion: REP. ADAMS moved that SB 337 BE CONCURRED IN. #34

Discussion: Reps. Wolery, Peterson.

Motion/Vote: REP. PETERSON moved that SB 337 BE TABLED. #35 Motion carried unanimously 20-0.

EXECUTIVE ACTION ON SB 384

Motion: REP. YOUNKIN moved that SB 384 BE CONCURRED IN. #36

Discussion: Reps. Younkin, Clark, Laszloffy, Newman, Harris, Noennig.

Motion: REP. HARRIS moved that SB 384 BE AMENDED to make it a \$50 civil penalty instead of \$100 criminal penalty. #37

Discussion: Rep. Harris, Mr. MacMaster, Reps. Younkin, Newman.

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 29.4}

Vote: Harris amendment passed 16-4 with Reps. Clancy, Curtiss, Rice and Younkin voting no.

Motion/Vote: REP. MANGAN moved that SB 384 BE AMENDED to designate whether its a fine or civil penalty. #38 Motion carried 13-7 with Reps. Clancy, Curtiss, Mangan, Newman, Peterson, Rice and Younkin voting no.

Motion: REP. ADAMS moved that SB 384 BE CONCURRED IN AS AMENDED. #39.

Discussion: Reps. Younkin, Clark, Newman, Peterson, Rice, Eggers, Noennig.

Vote: Motion #39 passed 15-5 with Reps. Clancy, Curtiss, Newman, Rice and Younkin voting no.

ADJOURNMENT

Adjournment: 11:20 A.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh65aad)